

# KIRBY MCINERNEY & SQUIRE, LLP

TELEPHONE:(212) 371-6600

(212) 317-2300

FACSIMILE:(212) 751-2540

IRVING MALCHMAN, OF COUNSEL

## VIA E-FILING

November 1, 2006

Clerk of the Court  
United States District Court for the District of Massachusetts  
Suite 2300  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Re: The City of New York and Captioned New York Counties (MDL 1456)  
(No. 01-CV-12257-PBS)

Dear Sir or Madam:

Per this Court's Order entered June 17, 2004 enclosed for filing in the above-captioned matters please find the November 1, 2006 status report for The City of New York and Captioned New York Counties.

Sincerely,

/s/ Aaron D. Hovan  
Aaron D. Hovan

Enclosures  
cc: All Parties of Record

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

THIS DOCUMENT RELATES TO:

*The City of New York v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 04-CV-06054

*County of Albany v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0425

*County of Allegany v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0236

*County of Broome v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00456

*County of Cattaraugus v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0256

*County of Cayuga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0423

*County of Chautauqua v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0214

*County of Chemung v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6744

*County of Chenango v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0354

*County of Columbia v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0867

*County of Dutchess v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 05-CV-6458

*County of Essex v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0878

*County of Fulton v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0519

*County of Genesee v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-00267

*County of Greene v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0474

**November 1, 2006**

**STATUS REPORT FOR  
THE CITY OF NEW  
YORK AND  
CAPTIONED NEW  
YORK COUNTIES**

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*County of Herkimer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00415

*County of Jefferson v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0715

*County of Lewis v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0839

*County of Madison v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0714

*County of Monroe v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-1648

*County of Niagara v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6296

*County of Oneida v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0489

*County of Onondaga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0088

*County of Ontario v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6373

*County of Orleans v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6371

*County of Putnam v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 05-CV-4748

*County of Rensselaer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00422

*County of Rockland v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-7055

*County of St. Lawrence v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0479

*County of Schuyler v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6387

*County of Seneca v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6370

*County of Saratoga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0478

*County of Steuben v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6223

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*County of Suffolk v. Abbott Laboratories, Inc., et al.*  
E.D.N.Y. Case No. 03-CV-12257

*County of Tompkins v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0397

*County of Ulster v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 01-CV-0123

*County of Warren v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0468

*County of Washington v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0408

*County of Wayne v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6138

*County of Westchester v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-6178

*County of Wyoming v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6379

*County of Yates v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-06172

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The undersigned counsel for the Captioned-plaintiffs (hereinafter referred to as the City of New York and Captioned New York Counties) hereby submit the attached status report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Date: November 1, 2006

New York, New York

KIRBY McINERNEY & SQUIRE, LLP

By: /s/ Joanne M. Cicala

Joanne M. Cicala

Aaron D. Hovan

830 Third Avenue

New York, New York 10022

(212) 371-6600

**COUNSEL FOR CITY OF NEW YORK AND  
CAPTIONED NEW YORK COUNTIES**

**MDL 1456 November 1, 2006 Status Report for the City of New York and Captioned New York Counties**

**Motions Concerning Consolidated Complaint**

On January 5, 2006 the City of New York, the Captioned New York Counties, Nassau County and the Defendants jointly filed a motion for entry of a Case Management Order and a proposed Case Management Order. This proposed order was adopted as CMO 21 on February 2, 2006. Pursuant to CMO 21, the Defendants filed motions to dismiss on March 3, 2006. The City of New York, the Captioned New York Counties and Nassau County filed oppositions to each motion on April 17, 2006. Defendants served Replies to said motions on May 11, 2006. On May 31, 2006, The City of New York, the Captioned New York Counties and Nassau County filed sur-replies on June 2, 2006. A hearing on those motions was held on June 16, 2006.

On June 28, 2006, defendants filed a Joint Recommendation on Certification of New York State Law Questions Concerning their Motion to Dismiss (1) The Consolidated Complaint of The City of New York and Plaintiff New York Counties Other than Nassau and (2) The Second Amended Complaint of Nassau County. On July 10, 2006, plaintiffs filed a Response To Issues Raised During The June 16, 2006 Oral Argument And To Defendant's Joint Recommendation On Certification.

On September 18, 2006 plaintiffs filed a Notice of Supplemental Authority in Further Opposition to Defendants' Motion to Dismiss. A second Notice of Supplemental Authority in Further Opposition to Defendants' Motion to Dismiss was also filed on November 1, 2006.

**Certificate of Service**

I certify that on November 1, 2006 a true and correct copy of the foregoing November 1, 2006 Status Report was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/Aaron D. Hovan  
Aaron D. Hovan